

	U.S. ENVIRONMENTAL PROTECTION AGENCY Cooperative Agreement		GRANT NUMBER (FAIN): 99257415	DATE OF AWARD 06/13/2016	
			MODIFICATION NUMBER: 0 PROGRAM CODE: BG		
			TYPE OF ACTION New		MAILING DATE 06/20/2016
			PAYMENT METHOD: Advance		ACH# 20040
RECIPIENT TYPE: State			Send Payment Request to: Las Vegas Finance Center		
RECIPIENT: NYS Dept of Environmental Conservation 625 Broadway Albany, NY 12233-5010 EIN: 14-6013200			PAYEE: NYS Dept of Environmental Conservation 625 Broadway Albany, NY 12233-5010		
PROJECT MANAGER Peter Freehafer 625 Broadway Albany, NY 12233-5010 E-Mail: peter.freehafer@dec.ny.gov Phone: 518-402-8219		EPA PROJECT OFFICER Martha Isaac 290 Broadway, CWD New York, NY 10007-1866 E-Mail: isaac.martha@epa.gov Phone: 212-637-3761		EPA GRANT SPECIALIST Cynthia Pabon REG; 02, OPM/GAMB E-Mail: Pabon.Cynthia@epa.gov Phone: 212-637-3405	
PROJECT TITLE AND DESCRIPTION NYSDEC SFY 16/17 PPG This agreement provides funding for the operation of the NYSDEC's continuing environmental programs while giving it greater flexibility to address its highest environmental priorities, improve environmental performance, achieve administrative savings and strengthen the partnership between NYSDEC and EPA. This agreement funds statewide programs to protect and improve water quality.					
BUDGET PERIOD 04/01/2016 - 03/31/2017		PROJECT PERIOD 04/01/2016 - 03/31/2021		TOTAL BUDGET PERIOD COST \$20,616,677.00	
				TOTAL PROJECT PERIOD COST \$20,616,677.00	
NOTICE OF AWARD					
Based on your Application dated 04/14/2016 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$8,578,469. EPA agrees to cost-share 60.49% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$8,674,469. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.					
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE		
ORGANIZATION / ADDRESS Grants and Audit Management Branch 290 Broadway, 27th Floor New York, NY 10007-1866			ORGANIZATION / ADDRESS U.S. EPA, Region 2 Clean Water Division 290 Broadway New York, NY 10007-1866		
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY					
Digital signature applied by EPA Award Official Richard Manna - Assistant Regional Administrator for Policy and Management				DATE 06/13/2016	

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FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 8,578,469	\$ 8,578,469
EPA In-Kind Amount	\$	\$ 96,000	\$ 96,000
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$ 8,145,208	\$ 8,145,208
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 16,819,677	\$ 16,819,677

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.605 - Performance Partnership Grants	Appropriations Act of 1996 (PL 104-134) Appropriations Act of 1998 (PL 105-65)	2 CFR 200 2 CFR 1500 40 CFR 33 and 40 CFR 35 Subpart A

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	1602HE0163	16	E1	02N2	202B06	4108	-	-	3,022,012
-	1602HE0163	16	E1	02N2	202B06XP1	4108	-	-	159,000
-	1602HE0163	16	E1	02N2	202B01	4108	-	-	5,363,857
-	1602HE0163	15	E1	02N2	202B01	4108	-	-	33,600
									8,578,469

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$7,661,948
2. Fringe Benefits	\$4,181,891
3. Travel	\$270,000
4. Equipment	\$135,000
5. Supplies	\$450,000
6. Contractual	\$4,676,179
7. Construction	\$0
8. Other	\$0
9. Total Direct Charges	\$17,375,018
10. Indirect Costs: % Base	\$3,241,659
11. Total (Share: Recipient <u>39.51</u> % Federal <u>60.49</u> %.)	\$20,616,677
12. Total Approved Assistance Amount	\$12,471,469
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$8,674,469
15. Total EPA Amount Awarded To Date	\$8,674,469

Administrative Conditions

1. GENERAL TERMS AND CONDITIONS

The recipient agrees to comply with the current EPA general terms and conditions available at: https://www.epa.gov/sites/production/files/2016-03/documents/epa_general_terms_and_conditions_effective_march_29_2016_or_later.pdf.

These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at <http://www.epa.gov/grants/grant-terms-and-conditions>.

GRANT-SPECIFIC ADMINISTRATIVE CONDITIONS

A. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES

MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E

MBE/WBE reporting is required in annual reports. Reporting is required for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category that exceed the threshold amount of \$150,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award meets the conditions above and is subject to the Disadvantaged Business Enterprise (DBE) Program reporting requirements. However, if recipient believes this award does not meet these conditions, it must provide the Grants Specialist with a justification and budget detail within 21 days of the award date clearly demonstrating that, based on the planned budget, this award is not subject to the DBE reporting requirements.

The recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds \$150,000.

When completing the annual report, recipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due by October 30th or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take

place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to the Region 2 Grants Office's central mailbox (Region2_GrantApplicationBox@epa.gov) with a courtesy copy to the grants specialist. The current EPA Form 5700-52A can be found at <http://www2.epa.gov/grants/epa-grantee-forms>

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

Current Fair Share Objective/Goal

The dollar amount of this assistance agreement or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The **New York State Department of Environmental Conservation** has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

Construction - Minority and Women Business Enterprise (MBE/WBE) Participation Goals:

Combined MBE/WBE statewide 20%

Non-Construction – Minority and Women Business Enterprise (MBE/WBE) Participation Goals:

(For all other professional and contractual services; supplies and equipment)

Combined MBE/WBE statewide 20%

Negotiating Fair Share Objectives/Goals

In accordance with 40 CFR, Part 33, Subpart D, established goals/objectives remain in effect for three fiscal years unless there are significant changes to the data supporting the fair share objectives. The recipient is required to follow requirements as outlined in 40 CFR Part 33, Subpart D when renegotiating the fair share objectives/goals.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

(a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

B. ADVANCE METHOD OF PAYMENT

Pursuant to 2 CFR 200.305, the recipient is authorized to receive advance payments under this agreement, provided that the recipient takes action to minimize the time elapsing between the transfer of funds from EPA and the disbursement of those funds. The recipient shall request Federal payments by completing the EPA Payment Requests Form (EPA Form 190-F-04-001) and either emailing or faxing it to the Las Vegas Finance Center at LVFC-grants@epa.gov or 702-798-2423. This form can be found at <http://www2.epa.gov/grants/epa-grantee-forms>. All email attachments must be sent in pdf format. Documents emailed to us in any other format cannot be accepted.

C. INTERIM FEDERAL FINANCIAL REPORT AND CLOSE-OUT INSTRUCTIONS

1. Interim Federal Financial Reports (FFRs)

Pursuant to 2 CFR 200.327, EPA recipients shall submit an interim annual Federal Financial Report (SF-425) to EPA no later than 90 calendar days following the anniversary of the start date of the agreement. The FFR must be faxed to the Las Vegas Finance Office at 702-798-2423, emailed to LVFC-grants@epa.gov. A courtesy copy of the interim FFR can be submitted to the Grants and Audit Management Branch via email to Region2_GrantApplicationBox@epa.gov. All email attachments must be sent in pdf format. Documents emailed to us in any other format will not be accepted.

EPA may take enforcement actions in accordance with 2 CFR 200.338 if the recipient does not comply with this term and condition.

2. Closeout

The Administrative Closeout Phase for this grant will be initiated with the submission of a "final" FFR, in accordance with 2 CFR 200.343. At that time, the recipient must submit the following forms/reports to the EPA Region 2 Grants and Audit Management Branch, if applicable:

- Federally Owned Property Report
- An Inventory of all Property Acquired with federal funds
- Contractor's or Grantee's Invention Disclosure Report (EPA Form 3340-3)

Additionally, the recipient's Final Request for Payment should be submitted to the LVFC.

D. EXTENSION OF PROJECT/BUDGET PERIOD EXPIRATION DATE

EPA has not exercised the waiver option to allow automatic one-time extensions for non-research grants under 2 CFR 200.308 (d)(2). Therefore, if a no cost time extension is necessary to extend the period of availability of funds (budget period), the recipient must submit a written request, including a justification as to why additional time is needed and an estimated date of completion to the EPA prior to the budget/project period expiration dates. The extension request should be submitted to the EPA, Grants and Audit Management Branch via email to Region2_GrantApplicationBox@epa.gov. An interim FFR (SF-425) covering all expenditures and obligations to date, must be emailed or faxed to the Las Vegas Finance Office at LVFC-grants@epa.gov or 702-798-2423 or sent to the following address:

US EPA, Las Vegas Finance Center
4220 S. Maryland Pkwy, Bld C, Rm 503
Las Vegas, NV 89119

To expedite processing of your request, please submit a courtesy copy of the interim FFR to the Grants and Audit Management Branch along with your extension request. All email attachments must be sent in pdf format. Documents emailed to us in any other format will not be accepted.

E. INDIRECT COSTS

If the recipient has submitted an indirect cost rate proposal to the cognizant Federal agency but

does not yet have an approved rate, it must submit a copy to the EPA Regional Office of the final or provisional Indirect Cost Negotiation Agreement that covers the agreement's budget period before it may charge indirect costs against this Assistance Agreement. If the recipient's negotiated rate does not extend through the life of the Assistance Agreement, additional indirect cost rate proposal(s) must be submitted until the full life of the Assistance Agreement is covered by negotiated indirect cost rates. The recipient **will not charge nor claim for reimbursement any indirect costs that are not covered by a negotiated indirect cost rate.**

F. PRE-AWARD COSTS

In accordance with 2 CFR 1500.8, the grantee may charge pre-award costs (both Federal and non-Federal matching shares) incurred from April 1, 2016 to the actual award date provided that such costs were contained in the approved application and all costs are incurred within the approved budget period.

Programmatic Conditions

GRANT SPECIFIC PROGRAMMATIC TERMS AND CONDITIONS

A. CONDITIONAL AWARD

Based on EPA's letter dated March 31, 2016, EPA has conditionally approved the work plan received on February 3, 2016 to allow recipient to proceed to work on approved work plan commitments. The recipient may incur costs on eligible activities associated with the approved work plan commitments up to \$12,471,469. Until a final work plan is approved by EPA:

- 1) the recipient should not request payments and EPA will not make payments for unapproved work; and
- 2) any costs incurred for unapproved work by the recipient are at its own risk.

B. RECIPIENT PERFORMANCE REPORTING AND EPA REVIEW

Performance Reports:

The recipient shall submit, to the EPA Project Officer, semi-annual performance reports (preferably electronic copies), due October 31 and April 30, for the duration of the agreement. In accordance with 2 CFR 200.328 and the Memorandum of Understanding between the NYSDEC/Division of Water (DOW) and EPA regarding the Grants Review and Oversight Group (GROG) report., the recipient agrees to include in performance reports submitted under this agreement brief information on each of the following areas:

- 1) a comparison of actual accomplishments with the anticipated outputs/outcomes specified in the assistance agreement work plan;
- 2) reasons why anticipated outputs/outcomes were not met;
- 3) other pertinent information, including, when appropriate, analysis and explanation of cost overruns or high unit costs.

In accordance with 2 CFR 200.328(2)(d)(1), the recipient agrees that it will notify EPA of problems, delays, or adverse conditions which materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan. In addition, interim performance reports must prominently display the three Essential Elements required for state workplans and reports. They are:

- Essential Element 1 - Strategic Plan Goal
- Essential Element 2 - Strategic Plan Objective
- Essential Element 3 - Workplan Commitments plus time frame

Final Performance Report:

The recipient agrees to submit the Final Performance Report to the EPA Project Office within 90 days after the end of the budget/project period. Final performance reports must prominently display the three Essential Elements required for state workplans and reports. They are:

- Essential Element 1 - Strategic Plan Goal
- Essential Element 2 - Strategic Plan Objective
- Essential Element 3 - Workplan Commitments plus time frame

The report will include any agreed-upon work-product(s) resulting from the project and the following:

- 1) an abstract or overview of the project including completed workplan activities;
- 2) a comparison of actual accomplishments with the anticipated outputs/outcomes specified in the assistance agreement work plan;
- 3) reasons why anticipated outputs/outcomes were not met;
- 4) other pertinent information, including, when appropriate, analysis and explanation of cost overruns or high unit costs.
- 5) the methods to be used to effectively disseminate project information and/or continue the benefits of this project (although the project itself may not be continuing);
- 6) materials generated in connection with project activities (e.g., workshop announcements, newspaper/newsletter announcements, articles or releases, press packets, pamphlets, etc.).

C. QUALITY ASSURANCE

Quality Management Plan

The NYSDEC Division of Water Quality Assurance Management Plan was approved for the period April 1, 2014 through March 31, 2019.

D. NONPOINT SOURCE MANAGEMENT PROGRAM

In accordance with the provisions of the Clean Water Act Section 319(h)(8) and the "Nonpoint Source Program and Grant Guidelines for States and Territories" as published in the *Federal Register*, EPA Region 2 has determined that NYSDEC has made satisfactory progress in

meeting the schedule of milestones as delineated in the State's Nonpoint Management program and the State's annual work plan. This determination was based on the review of the State's Nonpoint Source Reports, data input into the Grants Reporting and Tracking System (GRTS) status reports on annual work plans and additional documents submitted in regards to the Section 319 Nonpoint Source Program. Award of future nonpoint source management funds is contingent upon the availability of funds and continued satisfactory progress in the schedule of established milestones.

E. EPA INVOLVEMENT

EPA will have significant involvement with the recipient in the form of programmatic oversight, and review and comment of all agreement activities and products, as identified in components #1 through #5 in the State Fiscal Year 2016-2017 work plan.

F. EQUIPMENT CONDITION

For any items costing \$5,000 or more, a justification as to the need for purchasing the equipment is to be provided to the EPA project officer within 30 days of receipt of award. The EPA project officer must provide written approval for the planned purchase before such costs can properly be charged to the grant.

G. COMPUTER EQUIPMENT PURCHASES

The recipient shall obtain approval by the EPA, Region 2 Information Resources Management Branch, prior to the purchase of the computer equipment, computer services, or digital data with a unit price of \$5,000 or more.

H. COMPETENCY POLICY

In accordance with EPA's Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, for all awards where the maximum value of the assistance agreement will exceed \$200,000 in federal funding and the project will involve the generation or use of environmental data, the Recipient will be required to demonstrate competency prior to award. Alternatively, where a pre-award demonstration of competency is not practicable, the Recipient must demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. The Recipient shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy, including methods by which competency may be demonstrated, is available online at http://www.epa.gov/fem/lab_comp.htm.

I. STATE GRANT CYBERSECURITY CONDITION

(a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.

(b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.

For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.331(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.